

REMARKS/ARGUMENTS

In the final Office Action mailed August 21, 2009 (hereinafter, "Office Action"), claims 1-2, 4-6, 23, 25-32 and 35 stand rejected under 35 U.S.C. § 102. Claims 3, 7-22, 24, 33-34 and 36-38 stand rejected under 35 U.S.C. § 103. Claims 1, 2, 8, 9, 19, 22, 23, 25, 30, 31, 35, 36, and 38 have been amended. No new matter has been added.

Applicants respectfully respond to the Office Action.

I. Claims 1, 2, 4-6, 23, 25-32 and 35 Rejected Under 35 U.S.C. § 102(e)

Claims 1, 2, 4-6, 23, 25-32, and 35 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 7,269,423 to Lee et al. (hereinafter, "Lee").

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP § 2131 (*citing Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Id.* (*citing Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)). In addition, "the reference must be enabling and describe the applicant's claimed invention sufficiently to have placed it in possession of a person of ordinary skill in the field of the invention." *In re Paulsen*, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994).

Applicants respectfully submit that the claims as presented herein are patentably distinct from the cited references. The cited references do not disclose all of the subject matter in the claims.

Claim 1 has been amended to recite that "capacity is allocated for remote devices with capacity commitments in the admission profile before remote devices without capacity commitments in the admission profile." This amendment is supported by at least paragraphs [0074] and [0075] and Figure 6 of Applicants' specification. (See Figure 6, element 640 (citing the "remaining capacity"). Lee does not disclose this subject matter.

By contrast, Lee discloses "a system and method of admitting a call by taking the QoS [Quality of Service] of the call into consideration in a mobile communication system." (Lee, col. 2, lines 48-51). In the system, a "profile server 40 stores information in user profiles such as the identifier (ID) of each subscriber and authentication parameter[s]." (Lee, col. 1, lines 45-47). The "profile server "also includes a "Service Type, indicating the type of service and a Service

QoS Parameter Recorder containing a set of parameters related to a QoS level required from the service.” (Lee, col. 4, lines 44-47). When a call setup request is received, a “BTS” or a “BSC” performs a “CAC [Call Admission Control]” to determine resource availability. (See Lee, Figure 5 (BTS) and Figure 9 (BSC)). Then, the “Service Types and Service QoS Parameter Recorders” are sent in a message and used “to determine the availability of required resources when a channel is assigned for a call setup.” (Lee, col. 7, lines 47-53). The “BTS” or “BSC” then calculates available resources, and if there are sufficient resources, “assigns the bandwidth to the BTS 10 according to the requested data rate and assigns radio resource[s] within the BSC [or BTS].” (See Lee, Figures 5 and 9; col. 9, lines 18-20). However, this does not disclose that “capacity is allocated for remote devices with capacity commitments in the admission profile before remote devices without capacity commitments in the admission profile.” Rather, the “bandwidth” that is assigned is “according to the requested data rate” and “the availability of required resources.” There is no distinction between “remote devices with capacity commitments in the admission profile” and “remote devices without capacity commitments in the admission profile” in Lee. It is unclear exactly how the “BTS scheduler” in Lee allocates capacity after the “CAC operation” illustrated in Figures 5 and 9, but Lee does not disclose that “capacity is allocated for remote devices with capacity commitments in the admission profile before remote devices without capacity commitments in the admission profile.”

In view of the foregoing, Applicants respectfully submit that claim 1 is patentably distinct from Lee. Accordingly, Applicants respectfully request withdrawal of the rejection of claim 1 because Lee does fails to disclose all of the limitations of claim 1.

Claims 2 and 4-6 depend either directly or indirectly from claim 1. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 2 and 4-6.

Claim 23 has been amended to recite that “capacity is allocated for remote devices with capacity commitments in the admission profile before remote devices without capacity commitments in the admission profile.” As discussed above, Lee does not disclose this claimed subject matter. Accordingly, Applicants respectfully submit that claim 23 should be allowable.

Claim 25 has been amended to recite that “capacity is allocated for remote devices with capacity commitments in the admission profile before remote devices without capacity commitments in the admission profile.” As discussed above, Lee does not disclose this claimed subject matter. Accordingly, Applicants respectfully submit that claim 25 is allowable. Claims

26-29 depend either directly or indirectly from claim 25, and should therefore also be allowable for at least the same reasons.

Claim 30 has been amended to recite that “allocating capacity according to the located commitments before allocating capacity to remaining transmission indicators.” As discussed above, Lee does not disclose this claimed subject matter. Accordingly, Applicants respectfully submit that claim 30 should also be allowable.

Claim 31 has been amended to recite that “capacity is allocated for remote devices with capacity commitments in the admission profile before remote devices without capacity commitments in the admission profile.” As discussed above, Lee does not disclose this claimed subject matter. Accordingly, Applicants respectfully submit that claim 31 is allowable. Claim 32 depends directly from claim 31, and should therefore be allowable for at least the same reasons.

Claim 35 has been amended to recite that “capacity is allocated for remote devices with capacity commitments in the admission profile before remote devices without capacity commitments in the admission profile.” As discussed above, Lee does not disclose this claimed subject matter. Accordingly, Applicants respectfully submit that claim 35 should be allowable.

II. Claim 7 Rejected Under 35 U.S.C. § 103(a)

Claim 7 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Lee in view of U.S. Patent No. 6,728,270 to Meggers et al. (hereinafter, “Meggers”). This rejection is respectfully traversed.

The factual inquiries that are relevant in the determination of obviousness are determining the scope and contents of the prior art, ascertaining the differences between the prior art and the claims in issue, resolving the level of ordinary skill in the art, and evaluating evidence of secondary consideration. KSR Int'l Co. v. Teleflex Inc., 550 U.S. 398, 2007 U.S. LEXIS 4745, at **4-5 (2007) (*citing Graham v. John Deere Co. of Kansas City*, 383 U.S. 1, 17-18 (1966)). As the Board of Patent Appeals and Interferences has recently confirmed, “obviousness requires a suggestion of all limitations in a claim.” In re Wada and Murphy, Appeal 2007-3733 (*citing CFMT, Inc. v. Yieldup Intern. Corp.*, 349 F.3d 1333, 1342 (Fed. Cir. 2003)). Moreover, the analysis in support of an obviousness rejection “should be made explicit.” KSR, 2007 U.S. LEXIS 4745, at **37. “[R]ejections on obviousness grounds cannot be sustained by mere

conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” Id. (citing In re Kahn, 441 F.3d 977, 988 (Fed. Cir. 2006)).

Claim 7 depends indirectly from claim 1. Accordingly, Applicants respectfully request withdrawal of the rejection of claim 7.

III. Claim 3 Rejected Under 35 U.S.C. § 103(a)

Claim 3 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Lee in view of U.S. Patent No. 6,567,387 to Dulin et al. (hereinafter, “Dulin”). This rejection is respectfully traversed.

The standard to establish a *prima facie* case of obviousness is provided above.

Claim 3 depends indirectly from claim 1. Accordingly, Applicants respectfully request withdrawal of the rejection of claim 3.

IV. Claims 8, 9, 11, 13-17, 19, 20, 22, 24, 33 and 34 Rejected Under 35 U.S.C. § 103(a)

Claims 8, 9, 11, 13-17, 19, 20, 22, 24, 33 and 34 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lee in view of U.S. Patent No. 6,650,630 to Haartsen (hereinafter, “Haartsen”). This rejection is respectfully traversed.

The standard to establish a *prima facie* case of obviousness is provided above.

Claim 8 has been amended to recite that “capacity is allocated for remote devices with capacity commitments in the admission profile before remote devices without capacity commitments in the admission profile.” As discussed above, Lee, alone or in combination with Haartsen, does not teach or suggest this claimed subject matter. Accordingly, Applicants respectfully submit that claim 8 should be allowable. Claims 9, 11, 13-17, 19, and 20 depend either directly or indirectly from claim 8, and should therefore also be allowable for at least the same reasons as claim 8.

Claim 14 recites “modifying the admission profile to incorporate the flow upon admission.” The Office Action cites Lee and Haartsen as teaching this subject matter. (See Office Action, pages 2-3 and 18 (citing Lee) and pages 11-12 (citing Haartsen)). Applicants respectfully disagree.

By contrast, Lee teaches that for calls that require a QoS guarantee, “the BTS controller 211 calculates a remaining available bandwidth” and “determines whether a data rate required to guarantee the QoS of the call can be supported.” (Lee, col. 6, lines 48-55). In another embodiment, Lee similarly teaches that a “BSC controller 311 calculates a minimum data rate and bandwidth between the BSC 20 and the BTS 10 for the QoS and determines whether a requested data rate is supported with the remaining bandwidth....” (Lee, col. 9, lines 8-11). Then, the “BSC controller 311 assigns the bandwidth to the BTS 10 according to the requested data rate and assigns radio resource within the BSC 20.” (Lee, col. 9, lines 18-20). However, this does not teach or suggest that the “admission profile” is “modif[ied].” Specifically, Lee describes data *from* the “profile server” being *used* to determine available bandwidth. However, there is no teaching of *updating* or *changing* the data on “profile server.” Basically, using the data is not the same as “modifying” the data. The Office Action cites “Lee’s teaching of monitoring the allocated capacity for each mobile unit.” (Office Action, page 18). However, “monitoring” merely implies reading, not “modifying” data. There is no mention of how the “profile server” is updated, especially that it is updated to “incorporate the flow upon admission.” Therefore, Lee does not teach or suggest this subject matter.

Likewise, Haartsen does not teach or suggest this subject matter. Instead, Haartsen teaches a “system and method for resource management and traffic control in time division duplex communication systems.” (Haartsen, abstract). A “multi-radio base station maintains communication links with a plurality of remote terminals, each of which requests a specific bandwidth ratio.” (Haartsen, abstract). As best understood, the “multi-radio base station” maximizes “the overall throughput” by assigning the “remote terminals” in “order of decreasing bandwidth ratio the radios taken in a sort of zig-zag order....” (See Haartsen, col. 12, lines 12-15). This does not teach or suggest “modifying the admission profile to incorporate the flow upon admission.” The Office Action cites the “collection of transmission requests from the remote terminals” as the “admission profile.” (Office Action, pages 11-12). However, the cited portion of Haartsen only states that there are “five remote users A, B, C, D, and E having down/uplink bandwidth ratios of 6:1, 5:1, 4:1, 3:1, and 2:1, respectively.” Haartsen does not mention that the “collection of transmission requests” are “modif[ied]...to incorporate the flow upon admission.” In fact, Haartsen only mentions that “five remote users” request transmissions

from the “multi-radio base station,” not that they are organized and modified as an “admission profile.” Therefore, Haartsen does not teach or suggest this subject matter.

Claim 22 has been amended to recite that “capacity is allocated for remote devices with capacity commitments in the admission profile before remote devices without capacity commitments in the admission profile.” As discussed above, Lee does not disclose this claimed subject matter. Accordingly, Applicants respectfully submit that claim 22 should be allowable.

Claim 24 depends directly from claim 23. Claims 33 and 34 depend directly from claim 31. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 24, 33 and 34.

V. Claims 12 and 18 Rejected Under 35 U.S.C. § 103(a)

Claims 12 and 18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lee in view of Haartsen in further view of Meggers. This rejection is respectfully traversed.

The standard to establish a *prima facie* case of obviousness is provided above.

Claims 12 and 18 depend either directly or indirectly from claim 8. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 12 and 18.

VI. Claims 10 and 21 Rejected Under 35 U.S.C. § 103(a)

Claims 10 and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lee in view of Haartsen in further view of Dulin. This rejection is respectfully traversed.

The standard to establish a *prima facie* case of obviousness is provided above.

Claims 10 and 21 depend indirectly from claim 8. Accordingly, Applicants respectfully request withdrawal of the rejection of claims 10 and 21.

VII. Claims 36 and 38 Rejected Under 35 U.S.C. § 103(a)

Claims 36 and 38 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lee in view of U.S. Patent No. 7,085,279 to Kumar et al. (hereinafter, “Kumar”).

The standard to establish a *prima facie* case of obviousness is provided above.

Claim 36 has been amended to recite that “capacity is allocated for remote devices with capacity commitments in the admission profile before remote devices without capacity commitments in the admission profile.” As discussed above, Lee, alone or in combination with

Kumar, fails to teach or suggest this claimed subject matter. Accordingly, Applicants respectfully submit that claim 36 should be allowable.

Claim 38 has been amended to recite that "capacity is allocated for remote devices with capacity commitments in the admission profile before remote devices without capacity commitments in the admission profile." As discussed above, Lee, alone or in combination with Kumar, fails to teach or suggest this claimed subject matter. Accordingly, Applicants respectfully submit that claim 38 should be allowable.

VIII. Claim 37 Rejected Under 35 U.S.C. § 103(a)

Claim 37 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Lee in view of Kumar in further view of Haartsen. This rejection is respectfully traversed.

The standard to establish a *prima facie* case of obviousness is provided above.

Claim 37 depends directly from claim 36. Accordingly, Applicants respectfully request withdrawal of the rejection of claim 37.

CONCLUSION

In view of the foregoing, Applicants respectfully submit that all pending claims in the present application are in a condition for allowance, which is earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

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